IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 27TH MARCH 2007 / 6TH CHAITHRA 1929

LA.App..No. 690 of 2005()

LAR.74/1999 of SUB COURT, MANJERI
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APPELLANT/SUPPL. 2ND RESPONDENT:

MANAGING DIRECTOR,
KERALA STATE INDUSTRIAL DEVELOPMENT CORPORATION,
THIRUVANANTHAPURAM.

BY ADV. SRI.JOBY CYRIAC, SC, KSIDC

RESPONDENTS/IST RESPONDENT & CLAIMANT:
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1. THE DISTRICT COLLECTOR, MALAPPURAM.

2. PATTARKKADAVAN RASHEED,
SECRETARY, KIZHAKKETHALA, KUNDUNGAL MOSQUE,
PANAKKAD, MALAPPURAM.

R1 BY GOVERNMENT PLEADER ADV. SHRI MANOJ.
BY ADV. SRI.BABU S. NAIR

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 27/03/2007 ALONG WITH L.A.A. Nos. 755,756,757 AND 758 OF 2005, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON I.A. 1842 OF 2005 IN L.A.A.No. 690 OF 2005

DISMISSED.

27.03.2007

SD/- KURIAN JOSEPH, JUDGE.
SD/- K.T. SANKARAN, JUDGE.

/true copy/

P.A. TO JUDGE

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KURIAN JOSEPH & K.T. SANKARAN, JJ.

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L.A.A. Nos. 690, 755, 756, 757 & 758 OF 2005

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Dated this the 27th March, 2007

J U D G M E N T

Kurian Joseph, J:

These appeals are filed against the common judgment in L.A.R.Nos. 70 of 1999 and connected cases. Acquisition was for the purpose of setting up of an Industrial Growth Centre at Panakkad. It is the contention of the counsel for the appellants that the reference court, having found that the properties covered by Ext.A1 judgment (L.A.R.No. 49 of 1999 and connected cases) are of similar nature and are similarly situated and having found that the land value fixed therein was Rs. 4,000/- per cent, should not have fixed the land value at the rate of Rs.4,500/- per cent. It is contended that without any further evidence, the reference court erred in fixing the land value at the rate of Rs.4,500/- per cent. It is further contended that even in Ext. A8 judgment in L.A.R. 54 of 1999, the market value sustained is only Rs,4,000/- per cent. Hence on that ground also, fixation of land value at the rate of Rs.4,500/- per cent is unjust and

erroneous.

2. We afraid that the said contentions cannot be appreciated . It is seen from the judgment itself that fixation of market value in Ext. A1 judgment is " .....on the basis of distance from the tarred road to the properties involved in different references" and on the basis of such distances, the market value in the common judgment in Ext.A1 judgment varies from Rs.3250/- to Rs.4,000/-. Therefore basis of fixation of market value is rightly on the basis of nearness to road and road access. On the available evidence in the case, particularly on the basis of evidence of R.W.1, it has been found that compared to the properties covered by Ext.A1 and A8 judgments, the properties covered by judgment under appeal are nearer to the road and hence land value was fixed at Rs.4,500/- per cent. Counsel for the respondent in this context points out that in many cases wherein property was acquired for setting up of Industrial Growth Centre at Panakkad, this court has sustained the market value at Rs.4,500/- taking into consideration the importance of the locality and nearness of the acquired property to the road. One such judgment is in L.A.A. 771 of 2005. The reference court found that taking into consideration the commercial and industrial importance of the place and also of the road access and nearness to the road, fixation of land value at

Rs.4,500/- per cent is only just and proper. Since the said finding was based on the evidence available on record and since there was no contra evidence on the part of the respondent regarding factors like nearness to the road, importance of the locality etc., we fully agree with the reasoning and finding adopted by the reference court in the impugned judgment.

Therefore these appeals lack merit and they are accordingly dismissed.

KURIAN JOSEPH,
JUDGE.

K.T. SANKARAN,
JUDGE.

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